GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department – Appeal petition filed by Sri K. Bala Saidaiah S/o Late Peda Saidaiah, C/o Flat No.301, RK's Suvarna Shiva Apartments, Road No.6, Samathapuri Colony, New Nagole, Hyderabad, against the proceedings, dt: 16.5.2008 of the Collector & District Magistrate, Guntur in cancelling his ST 'Kammara' Community Certificate under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (A.P. Act No.16/1993) – Appeal Petition dismissed- Orders - Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.Ms.No.5. **Dated: 28.01.2022**

Read the following:-

1. Proceedings of the Collector, Guntur, Rc.No.1010/05-C4, dt:16.5.2008.
2. Appeal Petition dated 11.7.2008 from Sri K. Bala Saidaiah S/o Late Peda Saidaiah, Flat No.202, Lakshmi Anusha Apartments, Musheerabad, Hyderabad filed before M(TW & RIAD).
3. Govt. Memo No.5964/CV.2/2008-1, dated 28.7.2008.
4. Letter from the Collector, Guntur, Rc. No.1571/2008-C4, Dt:12.5.2009.
5. Govt. Memo No.5964/CV.2/2008, dated 22.01.2010.
6. D.O.Lr.No.5964/CV.2/2008, dated: 16.7.2010.
7. Order of the Hon'ble High Court of Andhra Pradesh, Hyderabad in WP No.20936/2008, dated 07.03.2017 filed by the appellant.
8. Govt. Memo No 5964/CV.2/2008, dated 09.01.2018, 06.02.2018, 20.03.2018, 30.04.2018, 04.07.2018, 07.08.2018 & 17.09.2018, 27.12.2018 & 09.01.2019 & 23.01.2019.
9. Govt. Memo No.5964/CV.2/2008, dated: 13.08.2019, 28.08.2019, 12.09.2019, 09.10.2019, 13.11.2019, 08.07.2021, 04.08.2021 & 08.09.2021.

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ORDER:

In the Proceedings 1st read above, the Collector & District Magistrate, Guntur has issued orders cancelling the ST 'Kammara' Community Certificate issued to Sri K.Bala Saidaiah S/o Late Peda Saidaiah, duly following due procedure laid down in A.P. (SC, ST & BC) Regulation of issue of Community Certificate Rules, 1997.

2. Aggrieved by above, Sri K. Bala Saidaiah S/o Late Peda Saidaiah has filed Appeal Petition before the Government against the said Proceedings of the Collector & District Magistrate, Guntur duly submitting grounds in support of his claim of ST 'Kammara' Community Certificate and prayed to set aside the proceedings of the Collector & District Magistrate, Guntur. After examining the said Appeal Petition, Government have admitted the same and called for the Para-wise remarks on the grounds filed by the Appellant along with connected records from the Collector & District Magistrate, Guntur vide Memo 3rd read above.

3. In the letter 4th read above, the Collector & District Magistrate, Guntur has furnished para-wise remarks along with connected records on the Appeal Petition filed by Sri K. Bala Saidaiah S/o Late Peda Saidaiah. In the mean time, the Appellant has filed WP.No.20936/2008 for suspension the Proceedings, dated 16.05.2008 issued by the Collector & District Magistrate, Guntur. The Hon'ble High Court in its final order has directed the Government to dispose of the appeal petition expeditiously vide reference 7th read above.

4. In compliance to the Hon'ble Court Orders, the said Appeal Petition has been posted for hearing before the Hon'ble Appellate Authority on various dates duly informing the same to the Appellant and the Counsel for the Appellant in the references 8th & 9th read above. The appellant and his counsel have attended the final hearing i.e., on 20.11.2021 and the case has been heard by the appellate authority on the said date. On perusal of the records/ the copies of evidences/ academic record/ grounds filed by the Appellant and proceedings of the Collector & District Magistrate, Guntur, dated 16.05.2008 and the para-wise remarks submitted by the District Collector, Guntur, the Appellate authority has observed that;

I. The grounds put-forth by the appellant in support of his claim of "ST Kammara" community are as follows:

   i. The enquiry before the District Level Scrutiny Committee is not maintainable in view of the fact that in case of appellant's younger brother, late Sri K. Sambasiva Rao,

[Contd.. on P.2]

who worked in Food Corporation of India, by proceedings in Rc.No.8083/97-C4 dated 27.11.1999 the then Collector, Guntur cancelled social status certificate issued in his favour. Assailing he validity of the same, he filed WP.No.1831/2000 on the file of the Hon'ble High Court of Andhra Pradesh, which writ petition was allowed by order dated 9.2.2000 by setting aside the above mentioned order and leaving it open to respondent to conduct a fresh enquiry in the light of the guidelines dated 23.07.1999 of the Government of Andhra Pradesh, Social Welfare (CV) Department. In pursuance thereof, his case was referred to the District Level Scrutiny Committee, Guntur, which submitted a report to the effect that his brother and his family members belong to Kammara (ST) community. By placing reliance on the said report, the then District Collector vide proceedings in Rc.No.8033/97/C4 dated 29.11.2002 passed order to the effect that appellant's brother belongs to Kammara ST Community. In the said order, the then District Collector, Guntur referred to the report of the Revenue Divisional Officer, Narasaraopet, which is also to the effect that his brother belong to Kammara ST Community. In this regard it is relevant to mention here that the then RDO, Narasaraopet, conducted a detailed enquiry in terms of the above mentioned Circular of the State Government dated 27.7.1999. therefore, in view of the fact that the statutory enquiry held by the then District Collector, Guntur in respect of the social status of appellant's brother concluded in his favour, wherein it is held that appellant's family members belong to Kammara (ST) Community. The present report of the District Level Scrutiny Committee dated 12.04.2008 is not maintainable in law and therefore, the appellant requested the respondent to withdraw notice dated 30.04.2008 by declaring that appellant and his family members belong to Kammara ST Community.

ii. The report of the District Level Scrutiny Committee, Guntur dated 15.04.2008 is not in conformity with rules 9 & 8 of the A.P. (Scheduled Castes, Scheduled Tribes & Backward Classes) issue of Community, Nativity and Date of Birth Certificates Rules, 1997, hereinafter referred to as the Rules, in as much as the said Rules contemplate that after the reference of the matter to the district Level Scrutiny Committee, it shall cause enquiry by Protection of Civil Rights and Vigilance Cell, which in turn should investigate the social status claim through police enquiry at the local place of residence of the concerned personnel or at the place of his migration. Whereas in appellant's case no such exercise is made.

iii. That before the District Level Scrutiny Committee, Guntur appellant filed various social status certificates and also the transfer and also the transfer certificates issued by (1) St. Joseph's High School, Rentachintala, Guntur District, where appellant studied 6th and 7th classes during the years 1980-82, (2) Transfer certificate issued by the A.P. Residential School, Tadikonda, Guntur District, where appellant studied 8th to 10th classes during the years 1982 to 1985 (3) the Transfer certificate issued by the A.P. Residential Junior College, V.P. South Nagarajuna Sagar, Guntur District. where appellant studied Intermediate in the years 1985 to 1987 and (4) the Transfer certificate issued by the J.K.C. College, Guntur, where the appellant studied B.Sc., Degree in the years 1988 to 1991. All the said certificates reveal that appellant belong to Kammara(ST) community, the District Level Scrutiny Committee failed to consider the same in contravention of the Rules. That the District Level Scrutiny Committee failed to consider the entry made in the Registered Deed dated 14.5.1950 in the name of appellant's grandfather, wherein it is mentioned that they belong to "Bayata Kammara Community". Though this document pertains to pre-constitutional period where there is no Presidential Order classifying the scheduled tribe castes. In those days on account of the habit of beef eating, liquor consumption by men and women, etc., bad habits, appellant's caste peoples were not allowed to enter the village and they used to stay outside the village like any other untouchables. Therefore, appellants' caste is mentioned as "Bayata Kammara" i.e., Kammara caste people, who hails from outside but not related to local Kammari community people, a sub-sect of Vishwabrahmin caste.

II. The Collector & District Magistrate, Guntur has furnished the following remarks on the above grounds as follows:

1. The Contention of the petitioner that he has been considered as a member belonging to Schedule Tribe community on the strength of various social certificates issued by various competent authorities is not correct as he obtained the above ST certificate in a fraudulent manner though he belongs to BC (Kammari) community. Moreover the ST Kammara certificates have to be issued by a Revenue Divisional Officer who is

[Contd..on P.3]

competent to issue such certificate in the non-scheduled areas of the state but he obtained the certificates from the Mandal Revenue Officer, Macherla time to time and submitted to the authorities to claim the benefits meant for the ST community. Regarding the caste certificate confirmation issued to his brother in D.Dis.No. 8083/97-C4, dt.29.11.2002 that he belongs to Kammara, it also had been taken into consideration to issue revised proceedings, but it was learnt that Sri K. Samba Siva Rao, brother of the individual died one year back. The appellant's plea that his fore fathers migrated from Srikakulam District long back and settled in Guntur District could not be relieved upon as he did not submit any evidence to that effect.

2. The matter was taken up by the District Level Scrutiny Committee for verification and only after examining the recommendations of the Officers and circular instructions of the Government, the report was communicated in Rc.No.1010/05-C4, dt:09.04.2008 to the petitioner directly to show cause within 7 days why the ST (Kammara) caste certificate issued to him by the Mandal Revenue Officer, Machela should not be cancelled. The appellant's request for more time to submit his explanation was not considered as he had already been given adequate time and fair opportunity to offer his explanations during the period of enquiry from 2005.

3. It is not true that the orders were not communicated to the petitioner so far. The orders were passed on 16.05.2008 and the fair copies were signed by the Superintendent on 19.05.2008 and dispatched. The explanation dt.17.05.2008 and the petitioner alleging that the Government officials put ante – date on the order is not correct as the authorities are only concerned about safe guarding the benefits earmarked to the STs but not causing harm to the petitioner requesting for time to officer explanation was received in this office, but there is no need to extend stipulated time as sufficient opportunity was already given to him to prove his community before the District Level Scrutiny Committee.

III. Finally, the Appellate Authority has observed /opined that;

1. The Appellant submitted his arguments as per his grounds in the appeal petition and has stated that the lower authority failed to consider the relevant documents about the social status of his educational carrier and if the same may be considered that it can be concluded that he belongs to ST community and further stated that on the strength of valid certificate issued by competent authority only he secured employment.

2. On verification of the documents and the grounds of appeal, Para wise remarks and written arguments as well as the other documents and material available on the record it is noticed that except the above contention nothing was placed for appreciation of the case of the appellant and he failed to produce any evidence that he belongs to ST Community and relying only on the documents which were produced before the lower authority and on perusing the said documents it is noticed that the lower authority carefully consider all the documents produced by the appellant and came to a conclusion that the appellant does not belongs to ST community.

3. That as per the act that the burden of proving that the appellant belongs to particular caste shall be on the appellant and it is the responsibility of the appellant to produce necessary evidence and documents to claim the same. As seen from the record the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity in the findings of the lower authority.

4. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority passed the order as per law which does not deserve any interference and accordingly the Proceeding of lower authority is hereby upheld and the appeal petition is hereby dismissed.

5. Government, after careful examination of the appeal petition and in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act No.16 of 1993), decide that the Proceedings of the Collector & District Magistrate, Guntur District in Rc.No.1010/05-C4, dt:16.05.2008 does not deserve any interference, hence, the same are hereby upheld duly dismissing the appeal petition filed by Sri K. Bala Saidaiah S/o Late Peda Saidaiah and the caste certificate issued by the then Tahsildar, Macherla is deemed to be cancelled.

[Contd..on P.4]

6. The Collector & District Magistrate, Guntur is directed to take necessary consequential action in the matter.

7. The records (D.Dis No.1010/05-C4, containing pages NF: 1-27, CF: 1-378) received from the Collector & District Magistrate, Guntur are returned herewith in original to the District Collector, Guntur and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT

To
The Collector and District Magistrate, Guntur.(w.e)
(with Original Records) (BY RPAD)

Sri K. Bala Saidaiah,
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Road No.6, Samathapuri Colony,
New Nagole, Hyderabad-35.

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Ph:9391304019.

Copy to:
The Addl.PS to Hon'ble Deputy CM(TW).
The PS to Secretary(TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER